

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

TIMOTHY O'SULLIVAN, et al.,)	
)	
Plaintiffs,)	
)	
-against-)	Civil Action No. 1:17-cv-08709-LTS-GWG
)	
DEUTSCHE BANK AG, et al.,)	
)	
Defendants.)	
_____)	

**AFFIDAVIT OF CHRISTOPHER C. DYER IN SUPPORT OF
PLAINTIFFS' MOTION FOR PRESERVATION ORDER**

BEFORE ME, the undersigned authority, this day personally appeared CHRISTOPHER C. DYER, ESQ., counsel on behalf of Plaintiffs in the above-styled and numbered cause, and after first being duly sworn, deposes and states as follows:

1. I am an associate at Lucas & Magazine, PLLC, counsel for Plaintiffs, and I have been admitted *Pro Hac Vice* to practice before this Court. I respectfully submit this affidavit in support of the Plaintiffs' Motion for Preservation Order. I am familiar with the issues raised in this action. Except as otherwise indicated, I have personal knowledge of the facts stated herein.

2. On Friday, July 27, 2018, I called the District Attorney, County of New York (DANY) and spoke with Assistant District Attorney Maureen O'Connor. I explained to her this Court's Order and what we were seeking to serve upon DANY. Assistant District Attorney O'Connor advised that the address and office for service was DANY's main office at One Hogan Place, New York, New York 10013.

3. On August 1, 2018, based upon the confirmation of Ms. O'Connor, I retained the services of Nicolletti & Harris, Inc., to effectuate service of the Order and related documents in-person at DANY's main office, One Hogan Place, New York, New York 10013.

4. On August 2, 2018, my office was notified by Nicoletti & Harris that Mr. Alex Colon had successfully served DANY at its Main Office, One Hogan Place, 7th Floor, New York, NY 10013 at 2:38PM that day. Attached is a true and authentic copy of the Affidavit of Service provided by Mr. Alex Colon. *See* Ex. A – Affidavit of Service.

5. On October 16, 2018, I called DANY at phone number 212-335-9000 and spoke with Assistant District Attorney Maureen O'Connor. I explained to her this court's previous Order and the October 12, 2018 Order and what we were seeking to serve upon DANY. Assistant District Attorney O'Connor provided her email address: oconnorm@dany.nyc.gov.

6. On October 16, 2018 I emailed Assistant District Attorney Maureen O'Connor this Court's October 12, 2018 Order, along with a true and correct copy of the Motion for Preservation Order and other relevant documents which this Court previously ordered to be served and were served upon DANY. *See* Ex. B – 10.16.18 Email to ADA O'Connor

7. On October 17, 2018, I emailed Assistant District Attorney O'Connor requesting her to confirm receipt of my October 16 email. She replied in the affirmative and advised that she will be filing responsive papers. *See* Ex. C – 10.17.18 Email to ADA O'Connor and response.

Executed on October 19, 2018, in New Port Richey, Florida.



Christopher C. Dyer, Esq.

STATE OF FLORIDA
COUNTY OF PASCO

The foregoing instrument was acknowledged before me this 19th day of October, 2018 by Christopher C. Dyer, Esq., who is personally known to me and who did take an oath.



Name of Notary

Notary Public, State of Florida

My Commission Expires: _____

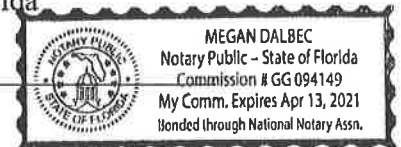


EXHIBIT A

AFFIDAVIT OF SERVICE

State of New York

County of Southern

United States District Court

Index Number: 1:17-CV-08709-LTS-GWG

Date Filed: 5/25/2018

Plaintiff:

Timothy O'Sullivan, et al

vs.

Defendant:

Deutsche Bank AG, et al.

For:

Christopher Dyer

Law Offices Of Lucas Magazine

8606 Government Drive

New Port Richey, FL 34654

Received by Nicoletti & Harris to be served on **District Attorney, New York County, One Hogan Place, New York, NY 10013.**

I, Alex Colon, being duly sworn, depose and say that on the **2nd day of August, 2018 at 2:38 pm, I:**

served a **CORPORATION** by delivering a true copy of the **Plaintiff's Motion for Preservation Order and exhibits thereto, Defendants' Response to Motion for Preservation Order; Plaintiffs' Reply in Support to Motion for Preservation; Magistrate Judge's Order Regarding Motion for Preservation; Magistrate Judge's Order and Opinion Granting Stay of Discovery** with the date and hour of service endorsed thereon by me, to: **Robert Gonzalez as Motion Specialist for District Attorney, New York County, at the address of: One Hogan Place, 7th Fl, New York, NY 10013**, and informed said person of the contents therein, in compliance with state statutes.

Description of Person Served: Age: 30, Sex: M, Race/Skin Color: Hispanic, Height: 5'9", Weight: 200, Hair: Dark Brown, Glasses: Y

I certify that I am over the age of 18 and have no interest in the above action.

Subscribed and Sworn to before me on the 3rd day of August, 2018 by the affiant who is personally known to me.

Caswell J. Bryan
NOTARY PUBLIC

Alex Colon
Alex Colon
2066997

Nicoletti & Harris
101 Avenue of the Americas
9th floor
New York, NY 10013
(212) 267-6448

Our Job Serial Number: NHI-2018007392

CASWELL J. BRYAN
NOTARY PUBLIC-STATE OF NEW YORK
No. 01-BR5084504

Qualified in Westchester County
My Commission Expires September 04, 2021



EXHIBIT B

From: Chris Dyer
To: "oconnorm@dany.nyc.gov"
Cc: Chris Dyer
Subject: 17-cv-08709-LTS-GWG, Plaintiff's Motion for Preservation Order
Date: Tuesday, October 16, 2018 11:33:56 AM
Attachments: [Service Packet Osullivan v. Deutsche.pdf](#)
[O'Sullivan v. Deutsche Bank et al. - 10.12.18-SDNY-Order RE Preservation-DANY.pdf](#)

Assistant District Attorney O'Connor,

I am sending this email to you in an effort to comply with a recent order issued by Magistrate Judge Gabriel W. Gorenstein in the case *O'Sullivan v. Deutsche Bank, et al.* Case No. 1:17-cv-08709-LTS-GWG.

As we previously discussed, my clients were ordered to serve upon the DANY our motion for preservation order and other documents related thereto, and to provide notice to your office of that order and the deadline to respond. Pursuant to your instructions, we served your office in person via process server on August 2, 2018.

As of today, the DANY has not responded, and thus on October 12, 2018, the Court issued a different order providing your office another opportunity to respond to the motion. The deadline for the response is October 26, 2018. Judge Gorenstein also ordered the Plaintiffs "to make contact with an attorney at each of these offices [NYDFS & DANY] by means of telephone and/or email, and to transmit a copy of this Order to that attorney. In addition, on or before October 19, 2018, plaintiffs shall file a sworn statement indicating their efforts to comply with this directive. The sworn statement shall include the names, email addresses, and telephone numbers of the attorneys."

Attached is a copy of the Oct. 12 Order.

Pursuant to this order, I also spoke to you by phone this morning and you provided me with your email address and indicated that you are unaware as to who at the DANY received the copy of the motion for preservation and order, but will review it as you receive it from me. As such, I have also attached a copy of the motion for preservation and order and other documents related thereto, which were served on August 2, 2018, for your review.

Should you wish to contact me directly, please do not hesitate to do so.

Thank you,

Chris



CHRISTOPHER C. DYER

Attorney at Law

Cell: (727) 859-7511

Office: (727) 849-5353

Fax: (727) 853-2298

CDyer@lucasmagazine.com

2601 Bee Ridge Road, Spring Hill, AL 36067, 360-891-1111

EXHIBIT C

From: O'Connor, Maureen
To: Chris Dyer
Subject: Re: 17-cv-08709-LTS-GWG, Plaintiff's Motion for Preservation Order
Date: Thursday, October 18, 2018 4:24:06 PM

Mr.Dyer, yes I did receive your October 16 email and we intend to file responsive papers. Thank you.

Sent Via DANY Mobile Device

This email communication and any files transmitted with it contain privileged and confidential information from the New York County District Attorney's Office and are intended solely for the use of the individuals or entity to whom it has been addressed. If you are not the intended recipient, you are hereby notified that any dissemination or copying of this email is strictly prohibited. If you have received this email in error, please delete it and notify the sender by return email.

Chris Dyer

Subject: FW: 17-cv-08709-LTS-GWG, Plaintiff's Motion for Preservation Order

From: Chris Dyer

Sent: Thursday, October 18, 2018 1:38 PM

To: 'oconnorm@dany.nyc.gov' <oconnorm@dany.nyc.gov>

Subject: RE: 17-cv-08709-LTS-GWG, Plaintiff's Motion for Preservation Order

Ms. O'Connor,

Would you be able to confirm your receipt of my 10/16/18 e-mail?

Thank you for your time,

Chris

